

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHAWN STEWART

**COMPLAINT AND
JURY DEMAND**

Plaintiff,

-against-

NEW YORK CITY, POLICE OFFICER STEPHANIE
DAVIS, SHIELD # 28218, POLICE OFFICER BRIAN
HIRSCHMAN, SHIELD # 22623

ECF CASE

Defendants.

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PRELIMINARY STATEMENT

1. This is a civil rights action in which Plaintiff Shawn Stewart (“Mr. Stewart”) seeks relief for the violation of his rights secured by 42 USC § 1983 and the Fourth and Fourteenth Amendments to the United States Constitution, and the laws and Constitution of the State of New York.

2. The claims arise from a September 25, 2019 incident in which defendants Stephanie Davis and Brian Hirschman (Officer Davis and Officer Hirschman, respectively) illegally seized and handcuffed Mr. Stewart in the lobby of a building in which he worked, solely because he declined to answer their hostile and accusatory questions, and handcuffed him excessively tightly solely for the purpose of punishing him.

3. Plaintiff seeks monetary damages (special, compensatory, and punitive) against defendants, as well as an award of costs and attorneys' fees, and such other and further relief as the Court deems just and proper.

JURISDICTION

4. This action is brought pursuant to 28 U.S.C. §1331, 42 U.S.C. § 1983, and the First, Fourth and Fourteenth Amendments to the United States Constitution.

5. Venue is laid within the United States District Court for the Southern District of New York in that the events in question occurred within, the boundaries of the Southern District of New York.

PARTIES

6. Mr. Stewart at all times here relevant resided in Kings County, New York.

7. Police Officers Hirschman and Police Officer Davis at all times here relevant were police officers acting under color of law.

FACTUAL ALLEGATIONS

THE INCIDENT

8. On September 25, 2019 at approximately 2:00 PM, Mr. Stewart was waiting for an elevator on the 16th floor of a building where he worked at 140 Alcott Place, Building E, Bronx, New York.

9. When the elevator arrived, Police Officers Hirschman and Davis exited the elevator and accosted Mr. Stewart, asking him where he was coming from, and other intrusive questions. When Mr. Stewart declined to answer the questions, Officer Hirschman and Officer Davis handcuffed Mr. Stewart. Although Mr. Stewart posed no threat, and was not struggling or evading arrest in any way, they fastened the cuffs extraordinarily tightly, for no purpose other than to inflict pain.

10. Although people came out from Mr. Stewart's place of business and confirmed

his legitimate presence in the building, Police Officer Hirschman and Police Officer Davis continued to keep Mr. Stewart in handcuffs.

11. Ultimately, after about a half an hour, Officer Hirschman and Officer Davis' supervising Sergeant arrived, and directed that he be released.

12. Officer Hirschman and Officer Davis have to this date never presented a legitimate, lawful reason for interrogating and handcuffing

DAMAGES

13. As a direct and proximate result of the acts of defendants, Plaintiff suffered the following injuries and damages:

- a. Violation of his rights pursuant to the Fourth and Fourteenth Amendments to the United States Constitution to free from an unreasonable search and seizure;
- b. Violation of his rights to Due Process of Law under the Fourteenth Amendment to the United States Constitution;
- c. Emotional trauma and suffering, including fear, embarrassment, humiliation, emotional distress, frustration, extreme inconvenience, anxiety;
- d. Loss of liberty;
- e. Physical pain and suffering.

FIRST CAUSE OF ACTION (42 U.S.C. § 1983)

14. The above paragraphs are here incorporated by reference.

15. Officers Hirschman and Davis acted under color of law and used objectively unreasonable force against Plaintiff, depriving him of his civil, constitutional and statutory rights to be free from unreasonable search and seizure and are liable to Plaintiff under 42 U.S.C. §

1983.

16. Officers Hirschman and Davis' seizure of Mr. Stewart was without reasonable suspicion or probable cause.

17. Officers Hirschman and Davis used unreasonable and excessive force in arresting Mr. Stewart.

WHEREFORE, Mr. Stewart demands judgment against the Officer Davis and Officer Hirschman, jointly and severally, as follows:

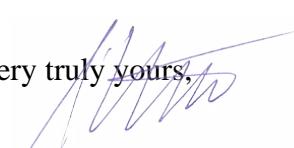
- A. In favor of Plaintiff in an amount to be determined by a jury for each of plaintiff's causes of action;
- B. Awarding Plaintiff punitive damages in an amount to be determined by a jury;
- C. Awarding Plaintiff reasonable attorneys' fees, costs and disbursements of this action; and
- D. Granting such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

DATED: Brooklyn, New York
May 3, 2022

Very truly yours,


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